



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO.   | FILING DATE        | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.                                | CONFIRMATION NO.                               |
|---|--------------------|----------------------|--|--|
| 09/159,503  | 09/24/1998         | B. REILLY BARRY      | COS97101   | 5202   |
| 25537<br>VERIZON<br>PATENT MANAGEMENT GROUP<br>1320 North Court House Road<br>9th Floor<br>ARLINGTON, VA 22201-2909 | 7590<br>09/28/2009 |                      | <div>EXAMINER</div> <div>MURDOUGH, JOSHUA A</div>  |  |
|   |                    |                      | <div>ART UNIT</div> <div>3621</div>                | <div>PAPER NUMBER</div>                        |
|   |                    |                      | <div>NOTIFICATION DATE</div> <div>09/28/2009</div> | <div>DELIVERY MODE</div> <div>ELECTRONIC</div> |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@verizon.com

# Office Action Summary

**Application No.**

09/159,503

**Applicant(s)**

BARRY ET AL.

**Examiner**

JOSHUA MURDOUGH

**Art Unit**

3621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 97-115 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 97-115 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 C.F.R. § 1.114***

1. A request for continued examination (“RCE”) under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 May 2009 has been entered.

***Acknowledgements***

2. This action is responsive to Applicants' above noted RCE and associated amendments received 15 May 2009.
3. This action has been assigned paper number 20090910 for reference purposes only.
4. Claims 97-115 are pending.
5. Claims 97-115 have been examined.

***Specification***

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. § 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

- a. “object oriented protocol” in at least claim 97;
- b. “toll free voice traffic” in at least claim 98;
- c. “electronic billing system” in at least claim 106;

***Claim Objections***

7. Claim 102 is objected to because of the following informalities: Claim 102 recites “the network includes event monitor system.” The word “an” appears to have been unintentionally omitted. Appropriate correction is required.

***Claim Rejections - 35 USC § 112 1<sup>st</sup> Paragraph***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 97-114 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

10. Claims 97 and 110 recite “a web-based delivery system that delivers to the customer an object oriented protocol.” As noted above, the phrase “object oriented protocol” does not appear in the instant specification. Moreover, upon reviewing the instant specification again, the Examiner was unable to find the delivery of any protocol to the customer. If Applicant can point to a passage where support for “a web-based delivery system that delivers to the customer an object oriented protocol” can be found, this rejection will be withdrawn. Otherwise, Applicants are required to remove this limitation from their claims.

***Claim Rejections - 35 USC § 112 2<sup>nd</sup> Paragraph***

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 97-114 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

13. Claim 97 recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements" which renders the claim indefinite. As claimed, it would not be understood by one of ordinary skill in the art what is being delivered to the customer. Possible interpretations include: delivering the name of a protocol, delivering a program implementing a protocol, delivering data that describes a protocol, and delivering a message using a protocol. Because of these mutually exclusive interpretations and because a person of ordinary skill in the art would not know from the claim language what needs to be delivered to the customer in order to infringe/anticipate the claim, the claim is indefinite. For purposes of applying the prior art, the Examiner has interpreted this limitation to require the delivery of a message using a protocol.

14. Moreover, this passage recites "an object oriented protocol that encrypts interactive communications" which indicates an active step, and "the protocol supports encryption" which

indicates that the protocol is passive. Because there are both indications that the protocol is active and passive, one of ordinary skill in the art would not understand if the protocol needs to be actively used in order to infringe/anticipate this claim.

15. Additionally, the recitation of “the protocol is configured to be invoked” further shows that the protocol, as claimed, is passive. As there is more evidence in the claim to show that the protocol is passive, the Examiner, when applying the prior art has taken the position that the protocol is passive.

16. Claim 110 has similar limitations and is rejected under the same rationale.

17. The Examiner finds that because particular claims are rejected as being indefinite under 35 U.S.C. §112 2nd paragraph, it is impossible to properly construe claim scope at this time. However, in accordance with MPEP §2173.06 and the USPTO’s policy of trying to advance prosecution by providing art rejections even though these claim are indefinite, the claims are construed and the art is applied as much as practically possible.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 97-115, as understood by the Examiner, are rejected under 35 U.S.C. §103(a) as being unpatentable over Archer (US 6,683,870) in view of McNair (US 4,608,455).

20. As to claims 97, 110, and 115; Archer shows:

d. An integrated and secure system for conducting business over the public Internet by enabling a customer of a communications network to command and control the customer's switched communications connections within the network over the public Internet and to view results of any changes in the customer's connections over the public Internet, the system comprising:

e. a web-based (IP is Internet Protocol, therefore a network using IP is "web-based") delivery system ("IP Network," 130) that delivers to the customer (subscriber) a message using an object oriented protocol (Internet Protocol, "IP", within "IP Network" 130) conducting interactive communications between the system and the customer (subscriber) over the public Internet ("connected via telephone lines to an Internet service provider," Columns 7-8, lines 64-11), where the protocol is configured to be invoked within a web browser ("Netscape Navigator" on 134b, Columns 7-8, lines 64-11) executed by a workstation **134b** associated with the customer, where the protocol supports customer identification (through an identification code, Column 8, lines 50-56), authentication and entitlements (Columns 8-9, lines 61-9);

f. at least one web server **128a** that manages customer sessions over the public Internet, the at least one web server providing session management for the customer (Column 9, lines 31-37), the session management including customer identification (through an identification code, Column 8, lines 50-56), validation (Columns 8-9, lines 61-9), and entitlements (Columns 8-9, lines 61-9); and

- g. at least one dispatch server **128b** that communicates with the at least one secure web server and a plurality of system resources (items 140, 142, 146, 120, and 132), provides verification of system access and verification of the customer's entitlements (Column 5, lines 45-58), and forwards messages (Column 4, lines 52-57) to a proxy associated with a desired service (voice mail or pager);
- h. the plurality of system resources including a network manager **140** which manages routing of the customer's traffic over the communications network (Column 4, lines 17-30), and a graphical user interface application to review network traffic (Column 5, lines 47-58), the network manager and said graphical user interface application responsive to messages from said dispatch server, where the network manager and the graphical user interface application command and control (Column 2, lines 35-50) circuit networks (Column 9, lines 62-67) provided by the enterprise to the customer.
- i. the system operates in near real time (Column 11, lines 36-43)

21. Archer does not expressly show the use of encryption or that the web server is secure. However, McNair shows how to encrypt voice and data communications (Column 1, lines 6-10), in order to provide more secure communications. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the teachings of Archer to encrypt the communications as done by McNair because it allows for the detection and correction of bit errors (Column 1, lines 36-57).



22. As to claims 98-100 and 111, the claimed differences would not require any structural differences and are therefore rejected under the same basis as claims 97 and 110.

23. As to claims 101 and 113, Archer further shows:

the graphical user interface application includes a reporter responsive to messages from the dispatch server to enable the customer to generate reports on voice communications in the network (Column 2, lines 48-50).

24. As to claim 102, Archer further shows:

the reporter for generating reports on the switched voice communications in the network includes event monitor system for generating reports on network traffic in near real time (As the reporting is combined with the communication, when the communication is in real time, so is the reporting; Column 11, lines 36-43).

25. As to claim 103, Archer further shows:

the reporter for generating reports on the switched voice communications in the network includes an event monitor system for generating reports on outbound network traffic in near real time (As the reporting is combined with the communication, when the communication is in real time, so is the reporting; Column 11, lines 36-43).

26. As to claims 104 and 114, Archer further shows:

the reporter for generating reports on the voice communications in the network includes a reporter for generating history reports on the voice communications occurring during selected periods of time (while not expressly showing reports being generated for selected periods of time, the necessary data is shown, therefore the system is enabling or capable of generating these reports. Column 7, lines 29-42).

27. As to claim 105, Archer further shows:

the reporter for generating reports on the switched voice communications in the network includes a report manager application for enabling a customer to generate reports for a plurality of switched voice communication applications and an inbox system for communicating the reports to the customer (the reports are generated locally at both ends and are transmitted to the opposite end; Column 11, lines 36-43).

28. As to claim 106, Archer further shows:

the reporter for generating reports on the voice communications in the network includes electronic billing application for enabling a customer to generate priced reports and invoices for a plurality of voice communication applications (Column 7, lines 29-42).

29. As to claim 107, Archer further shows:

the customer's switched communications connections includes switched data traffic connections and the graphical user interface application for generating reports on data relating to data traffic (Column 2, lines 48-50).

30. As to claim 108, Archer further shows:

the system includes an inbox system for storing and forwarding reports to the customer on data relating to the customer's switched voice and data traffic (the reports are generated locally at both ends and are transmitted to the opposite end; Column 11, lines 36-43).

31. As to claim 109, Archer further shows:

the system includes an event monitor system for storing and forwarding alarms generated with respect to the customer's traffic over the communications network (Column 9, lines 10-23).

32. As to claim 112, Archer further shows:

the system further comprises an electronic billing system which enables electronic business transactions to pay for the services, where the order entry and electronic billing system are responsive to messages from the dispatch server to enable the customer to manage and pay for the communications network services provided by the enterprise (Column 7, lines 29-42).

### ***Double Patenting***

33. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined

application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

34. A timely filed terminal disclaimer in compliance with 37 C.F.R. §§ 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

35. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 C.F.R. §3.73(b).

36. In each rejection below, claim 97 of the instant application has been set forth as a representative claim. Claim 97 is an independent claim. Claims 110 and 115 are also independent claims which include similar features to claim 97. See Applicants' 14 May 2009 Remarks, Page 33, Paragraph 1. Therefore, claims 110 and 115 are not considered patentably distinct from claim 97. Claims 98-109 and 111-114 are dependent on either claim 97 or 110. As

such, a patentably distinct independent claim would also result in patentably distinct dependent claims.

37. As noted in the rejections under 35 U.S.C. 112 1<sup>st</sup> and 2<sup>nd</sup> paragraphs above and the Response to Arguments below, the limitation “a web-based delivery system...entitlements;” is indefinite and not adequately supported and is therefore not sufficient to show patentability. The Examiner agrees that, if properly amended, this limitation may be able to distinguish the instant claims from the claims in the below cited patents. However, the double patenting rejections will be maintained at least until these issues under 35 U.S.C. 112 are resolved or other amendments are made which cause the instant claims to be patentably distinct.

38. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. 6,381,644. The ‘644 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one authentication secure server,” claim 1), at least one dispatch server (“a dispatch server,” claim 1), a network manager (“outbound network manager,” claim 1), and a graphical user interface application (on “network configuration device,” claim 1). Claim 1 of the ‘644 patent contains additional elements (*i.e.* application secure server) not needed to anticipate the instant claims. However, Applicants have used the term “comprising” in their current claims which allows for additional elements to be present.

39. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,377,993. The ‘993 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure server,” claim 1), at least one dispatch server (“dispatch server,”

claim 1), a network manager ("firewall," claim 1), and a graphical user interface application (on "report manager server," claim 1). Also, the '993 patent contains extra limitations not required in the instant application.

40. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,385,644. Although the conflicting claims are not identical, they are not patentably distinct from each other because the only substantive difference between the two sets of claims is in relation to the type of communication supported (voice or data), which would be an obvious modification as the content of the communication is non-functional material.

41. Claims 97-114 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,470,386. The '386 patent contains, an object oriented protocol (IP on the "Internet", claim 1), at least one secure web server ("at least one secure server," claim 1), at least one dispatch server ("a device for generating statistical data," claim 1), a network manager ("customer," claim 8), and a graphical user interface application (on "a retrieval device," claim 1). In the '386 patent, the customer has to manually route the traffic. "[P]roviding an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art" (MPEP 2144.04 III).

42. Claims 97-114 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,490,620. The '620 patent contains, an object oriented protocol (IP on the "Internet", claim 1), at least one secure web server ("at least one secure server," claim 1), at least one dispatch server ("a device for receiving

network information,” claim 1), a network manager (“a device for periodically polling network switches,” claim 1), and a graphical user interface application (on “integrated interface,” claim 1).

43. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-34 of U.S. Patent No. 6,574,661. The ‘661 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure server,” claim 1), at least one dispatch server (“a network configuration system,” claim 1), a network manager (“a network manager,” claim 1), and a graphical user interface application (on “integrated interface,” claim 1).

44. Claims 97-114 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 6,598,167. The ‘167 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure web server,” claim 1), at least one dispatch server (“at least one dispatcher server,” claim 1), a network manager (“system resources providing communications network management,” claim 1), and a graphical user interface application (on “integrated interface,” claim 1).

45. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-26 of U.S. Patent No. 6,606,708. The ‘708 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure server,” claim 1), at least one dispatch server (“at least one dispatcher server,” claim 1), a network manager (“system resources providing communications network

management,” claim 1), and a graphical user interface application (on “system resources...generate client data,” claim 1).

46. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-73 of U.S. Patent No. 6,611,498. The ‘498 patent contains, an object oriented protocol (IP on the “Internet”, claim 68), at least one secure web server (“a secure server,” claim 68), at least one dispatch server (“configuring device,” claim 68), a network manager (“configuring device,” claim 1), and a graphical user interface application (on “configuring device,” claim 68). The ‘498 patent provides the same functionalities as claimed in the instant application. However, several of the functions are performed by the same “configuring device.” However, MPEP 2144.04 V C. states that, “if it were considered desirable for any reason to [make two parts separable], it would be obvious to make the [two parts separable] for that purpose.”

47. Claims 97-114 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,745,229. The ‘229 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure server,” claim 1), at least one dispatch server (“an invoice server device,” claim 1), a network manager (“an invoice presentation device,” claim 1), and a graphical user interface application (on “presentation applet,” claim 1).

48. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 6,763,376. The ‘376 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one web server,” claim 1), at least one dispatch server (“at least one dispatch



server,” claim 1), a network manager (“system resources providing communications network management,” claim 1), and a graphical user interface application (on “system resources...generate client data,” claim 1). Claim 1 of the ‘376 patent contains additional functions not needed to anticipate the instant claims. However, Applicants have used the term “comprising” in their current claims which allows for additional elements to be present.

49. Claims 97-115 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,968,571. The ‘571 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure web server,” claim 1), at least one dispatch server (“at least one dispatcher server,” claim 1), a network manager (“system resources providing communications network management,” claim 1), and a graphical user interface application (on “system resources...generate client data,” claim 1).

50. Claims 97-114 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No. 7,058,600. The ‘600 patent contains, an object oriented protocol (IP on the “Internet”, claim 1), at least one secure web server (“at least one secure server,” claim 1), at least one dispatch server (“at least one dispatch server,” claim 1), a network manager (“system resources providing communications network management,” claim 1), and a graphical user interface application (on “system resources...generate client data,” claim 1).

51. In accordance with *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), the Examiner finds that the references How Computers Work, 4<sup>th</sup> Ed.. by Ron White; How Networks Work, Bestseller Ed. by Frank J. Derfler et. al are additional evidence of what is basic knowledge or common sense to one of ordinary skill in this art. Each reference is cited in its entirety. Moreover, because these references are directed towards beginners (see e.g. "User Level Beginning . . ."), because of the references' basic content (which is self-evident upon review of the references), and after further review of the entire application and all the art now of record in conjunction with the factors as discussed in MPEP §2141.03 (where practical), the Examiner finds that these references are primarily directed towards those of low skill in this art. Because these references are directed towards those of low skill in this art, the Examiner finds that one of ordinary skill in this art must—at the very least—be aware of and understand the knowledge and information contained within these references.

### ***Response to Arguments***

52. Applicant's arguments filed 14 May 2009 have been fully considered but they are not persuasive.

53. Applicants argue:

54. "The Examiner alleges that the phrase "object oriented protocol" recited in claim 97 is not supported by the specification (final Office Action, p. 2, item b). Applicants disagree with the Examiner's allegation.

55. The terms "object oriented protocol" may correspond to, for example, a process employed in an object-oriented environment. Support for these terms can be found, for example, at p. 29, line 28 to p. 30, line 2 of the specification, which disclose:

More specifically, the client-tier software is created and 30 distributed as a set of Java classes including the applet classes to provide an industrial strength, object-oriented environment over the Internet.

56. Therefore, Applicants submit that the specification satisfies the written description requirement with respect to the phrase "object oriented protocol" as recited in claim 97" (Remarks, Page 13, item b).

57. Examiner's response:

58. Contrary to Applicants' assertion, an objection to the specification has a different standard than a rejection under 35 U.S.C. 112 1st paragraph for written description. The authority for an objection to the specification for lack of antecedent basis comes from the rules as noted in MPEP § 608.01(o): "Note that examiners should ensure that the terms and phrases used in claims presented late in prosecution of the application (including claims amended via an examiner's amendment) find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description, see 37 CFR 1.75(d)(1)." Applicant should (1) amend their specification to include the above phrases OR (2) amend the claims so the phrases correspond to the ones used in the specification in order to overcome these objections.

59. As the phrase "object oriented protocol" is still in at least claim 97 and cannot be found in the specification, the objection is maintained.

60. Applicants argue:

61. “For example, ARCHER and MCNAIR do not disclose a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements, as recited in claim 97, amended as proposed. The Examiner relies on IP Network 130; col. 7, line 64 to col. 8, line 11; item 134b; col. 8, lines 50-56; and col. 8, line 61 to col. 9, line 9 of ARCHER for allegedly disclosing this feature (final Office Action, p. 7). Applicants respectfully disagree with the Examiner's interpretation of ARCHER” (Remarks, Pages 21-22).

62. Examiner's response:

63. The argued limitation was not present in the argued form prior to the instant amendment. Therefore, the Examiner has not relied on anything prior to this action to disclose the feature as argued.

64. The Examiner notes that this feature is currently subject to rejections under 35 U.S.C. 112 1<sup>st</sup> and 2<sup>nd</sup> paragraphs. An indefinite and unsupported limitation cannot be used as grounds for patentability.

65. Applicants argue:

66. “Col. 7, line 64 to col. 8, line 11 of ARCHER, which describe items 130 and 134b of ARCHER, disclose... This section of ARCHER discloses a computer that executes a browser, which is coupled to a packet-switched network via telephone lines through a modem. This section of ARCHER does not disclose an object oriented protocol that supports encryption or entitlements” (Remarks, Page 22, Paragraph 1).

67. Examiner's response:

68. The Examiner agrees that col. 7, line 64 to col. 8, line 11 of Archer does not disclose “an object oriented protocol that supports encryption or entitlements.” The Examiner has not relied upon this passage for showing all of these elements. Moreover, the Examiner did not rely on Archer at all for showing the encryption.

69. The Examiner notes that Applicants have alleged that several of the individual citations provided by the Examiner do not show the entire limitation when taken alone.

70. In response to Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Similarly, when the Examiner has cited multiple passages from multiple references, arguing that one passage does not show all the elements does not show nonobviousness.

71. Applicants argue:

72. “Moreover, ARCHER and MCNAIR do not disclose at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service, as recited in claim 97, amended as proposed. The Examiner relies on item 128b; items 140, 142, 146, 120, and 132; col. 8, line 61 to col. 9, line 9; and item 138 of ARCHER for allegedly disclosing this feature (final Office Action, pp. 7-8). Applicants disagree with the Examiner's interpretation of ARCHER” (Remarks, Page 27, Paragraph 1).

73. Examiner's response:

74. Again, Applicant has argued the Examiner's position on a limitation that has not previously been presented. Therefore, the Examiner has not set forth his position prior to the instant Office Action. Because the Examiner has not set forth his position on this limitation as amended, arguments to the Examiner's position are not persuasive.

75. Applicants have provided numerous arguments towards amended limitations where they state they disagree with the Examiner's position. While these arguments have been considered, they are not persuasive because Applicants could not have known the Examiner's position prior to receiving the instant Office Action.

76. Applicants argue:

77. “MCNAIR does not overcome the deficiencies of ARCHER set forth above with respect to this feature of claim 97, amended as proposed” (Remarks, Page 26, Paragraph 2).

78. Examiner's response:

79. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

*Double Patenting Arguments*

80. Applicants argue:

81. "[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '644 patent. Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,381,644. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service" (Remarks, Page 34) (emphasis omitted).

82. Examiner's response:

83. Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,381,644 for the reasoning articulated below.

84. As it appears Applicant is arguing that a Graham analysis is missing, the Examiner notes the following in response to an appellant's allegation that a Graham analysis must be performed to demonstrate obviousness-type double patenting:

- A. "We are also unpersuaded by Basell's assertion that double patenting rejection should be reversed because the Board failed to expressly conduct a full Graham analysis in determining that the '687 patent claims were an obvious variant of claim 1 of the '987 patent. Indeed, "this court has endorsed an obviousness determination similar to, but not necessarily the same as, that undertaken under 35 U.S.C. §103 in determining the propriety of a rejection for double patenting." *In re Braat*, 937 F.2d 589, 592-93, 19 USPQ2d 1289 (Fed. Cir. 1991). Hence, we find no basis for reversing the Board's decision merely because the Board failed to expressly set forth each of the Graham factors in its analysis. The Board carefully considered claim 1 of the '987 patent and the claims of the '687 patent and determined that a person of ordinary skill in the art would have found the '687 patent claims to have been obvious. We find no error in the Board's analysis."

*In re Basell Poliolefine Italia S.P.A.*, 89 USPQ2d 1030, 1036 (Fed. Cir. 2008).

85. The same appellant also argued that the patent's disclosure could not be used to determine obvious variants in an obviousness-type double patenting rejection. To this argument the court stated:

- B. "[O]ur predecessor court stated that a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent. *Vogel*, 422 F.2d at 441-42. The court stated that the disclosure may be used to learn the meaning of terms and in "interpreting the coverage of [a] claim." *Id.* at 441. It may also be used to answer the question whether claims merely define an obvious variation of what is earlier disclosed and claimed. The court stated that the disclosure "sets forth at least one tangible embodiment within the claim, and it is less difficult and



more meaningful to judge whether [something] has been modified in an obvious manner.” *Id.* at 442. The court further stated that “use of the disclosure is not in contravention of the cases forbidding its use as prior art, nor is it applying the patent as a reference under 35 U.S.C. §103, since only the disclosure of the invention claimed in the patent may be examined.” *Id.* As such, we conclude that the Board did not err in referring to the specification of the ‘987 patent when it determined whether the claims were patentably distinct from the claims of the ‘687 patent.”

*Basell*. 89 USPQ2d at 1036.

86. The following sets forth the analysis for an obviousness-type double patenting:
- C.** “Generally, an obviousness-type double patenting analysis entails two steps. First, as a matter of law, a court construes the claim in the earlier patent and the claim in the later patent and determines the differences. Second, the court determines whether the differences in subject matter between the two claims render the claims patentably distinct. A later claim that is not patentably distinct from an earlier claim in a commonly owned patent is invalid for obvious-type double patenting. A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or anticipated by, the earlier claim.”
- Eli Lilly & Co. v. Barr Labs., Inc.*, 251 F.3d 955, 968, 58 USPQ2d 1865, (Fed. Cir. 2001).
87. The following is a statement by Applicants regarding the skill of one of ordinary skill in the art of the instant application
- D.** “[O]ne of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure.”

Applicants’ Remarks 14 May 2009, Page 19, Paragraph 2.

88. As noted above, “a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent” (**B.**). The disclosure of the '644 patent states:

“As illustrated in FIG. 2, after one of the DMZ Web servers 24 decrypts and verifies the user session, it forwards the message through a firewall 25b over a TCP/IP connection 23 to the dispatch server 26 on a new TCP socket while the original socket 22 from the browser is blocking, waiting for a response. The dispatch server 26 will unwrap an outer protocol layer of the message from the DMZ services cluster 24, and will reencrypt the message with symmetric encryption and forward the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 will be blocking on a receive. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatch server 26 from StarOE server 49 at logon time and cached.”

(C 8, LL 44-62).

89. This functional description of the invention claimed in the '644 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated “one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure” (**D.**)

90. Because the functional limitations are set forth in the '644 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '644 patent.

91. Applicants argue:

92. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 6,381,644 do not recite at least these features" (Remarks, Page 34).

93. Examiner's response:

94. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '644 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite, show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

95. Applicants argue:

96. "[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '993 patent.

Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,377,993. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service" (Remarks, Pages 34-35) (emphasis omitted).

97. Examiner's response:

Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,377,993 for the reasoning articulated below.

98. As noted above, "a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent" (B.). The disclosure of the '993 patent states:

"As illustrated in FIG. 3, after one of the DMZ Web servers 44 decrypts and verifies the user session, it forwards the message through a firewall 55b over a TCP/IP connection 33 to the dispatch server 46 on a new TCP socket while the original socket 32 from the browser is blocking, waiting for a response. The dispatch server 46 will unwrap an outer protocol layer of the message from the DMZ services cluster 44, and will reencrypt the message with symmetric encryption and forward the message to an appropriate application proxy via a third TCP/IP socket 37. While waiting for the proxy response, all three of the sockets 32, 33, 37 will be blocking on a receive. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatch server 46 from StarOE server 69 at logon time and cached."

(C 9, LL 23-41).

99. This functional description of the invention claimed in the '993 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated "one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure" (D.)

100. Because the functional limitations are set forth in the '993 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '993 patent.

101. Applicants argue:

102. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 6,377, 993 do not recite at least these features" (Remarks, Page 36).

103. Examiner's response:

104. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '993 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite, show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

105. Applicants argue:

106. "[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '644 patent. Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,385,644. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service" (Remarks, Page 37) (emphasis omitted).

107. Examiner's response:

Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,385,644 for the reasoning articulated below.

108. As noted above, "a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent" (**B.**). The disclosure of the '644 patent states:

"As illustrated in FIG. 2, after one of the DMZ Web servers 24 decrypts and verifies the user session, it forwards the message through a firewall 25b over a TCP/IP connection 23 to the dispatch server 26 on a new TCP socket while the original socket 22 from the browser is blocking, waiting for a response. The dispatch server 26 unwraps an outer protocol layer of the message from the DMZ services cluster 24, and re-encrypts the message with symmetric encryption and forwards the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 block on a receive. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatch server 26 from the StarOE server 49, the server component of the present invention, at logon time and cached."

(C 7, LL 36-54).

109. This functional description of the invention claimed in the '644 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated "one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure" (**D.**)

110. Because the functional limitations are set forth in the '644 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '644 patent.

111. Applicants argue:

112. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 6,385,644 do not recite at least these features" (Remarks, Page 37).

113. Examiner's response:

114. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '644 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite, show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.



115. Applicants argue:

116. “[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '620 patent.

Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,490,620. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service" (Remarks, Page 39-40) (emphasis omitted).

117. Examiner's response:

Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,490,620 for the reasoning articulated below.

118. As noted above, “a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent” (B.). The disclosure of the '620 patent states:

“As illustrated in FIG. 2, after one of the DMZ Web servers 24 decrypts and verifies the user session, it forwards the message through a firewall 25b over a TCP/IP connection 23 to the dispatch server 26 on a new TCP socket while the original socket 22 from the browser is blocking, waiting for a response. The dispatch server 26 will unwrap an outer protocol layer of the message from the DMZ services cluster 24, and will reencrypt the message with symmetric encryption and forward the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 will be blocking on a receive. Specifically, once the

message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatch server 26 from StarOE server 49 at logon time and cached."

(C 7, LL 22-40).

119. This functional description of the invention claimed in the '620 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated "one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure" (D.)

120. Because the functional limitations are set forth in the '620 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '620 patent.

121. Applicants argue:

122. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and

entitlements." The claims of U.S. Patent No. 6,490,620 do not recite at least these features"  
(Remarks, Page 40).

123. Examiner's response:

124. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '620 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite, show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

125. Applicants argue:

126. "[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '661 patent. Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,574,661. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service"  
(Remarks, Page 41) (emphasis omitted).

127. Examiner's response:

Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,574,661 for the reasoning articulated below.

128. As noted above, "a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent" (**B.**). The disclosure of the '661 patent states:

"As illustrated in FIG. 2, after one of the DMZ Web servers 24 decrypts and verifies the user session, it forwards the message through a firewall 25b over a TCP/IP connection 23 to the dispatch server 26 on a new TCP socket while the original socket 22 from the browser is blocking, waiting for a response. The dispatch server 26 will unwrap an outer protocol layer of the message from the DMZ services cluster 24, and will reencrypt the message with symmetric encryption and forward the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 will be blocking on a receive. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatch server 26 from StarOE server 49 at logon time and cached."

(C 8, LL 11-29).

129. This functional description of the invention claimed in the '661 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated "one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure" (**D.**)

130. Because the functional limitations are set forth in the '661 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '661 patent.

131. Applicants argue:

132. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 6,574,661 do not recite at least these features" (Remarks, Page 41).

133. Examiner's response:

134. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '661 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite, show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

135. Applicants argue:

136. “[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '167 patent.

Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,598,167. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service" (Remarks, Pages 42-43) (emphasis omitted).

137. Examiner's response:

Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,598,167 for the reasoning articulated below.

138. As noted above, “a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent” (**B.**). The disclosure of the '167 patent states:

“As illustrated in FIGS. 4 and 9, after one of the DMZ Web servers 24 decrypts and verifies the user session, it forwards the message through a firewall 29b over a TCP/IP connection 23 to the dispatcher server 26 on a new TCP socket while the original socket 22 from the browser is blocking, waiting for a response. The dispatcher server 26 will unwrap an outer protocol layer of the message from the DMZ server cluster 24, and will reencrypt the message with a different encryption key and forward the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 will be blocking on a receive. While either

symmetric or public key encryption can be used, in the preferred embodiment, public key encryption is utilized, with the "public" keys used between components of the network, kept secret. A different public key may be employed for communicating between the dispatcher 26 to the webserver 24 than is used from the webserver 24 to the dispatcher 26. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatcher server 26 from StarOE server 49 at logon time and cached."

(CC 8-9, LL 51-19).

139. This functional description of the invention claimed in the '167 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated "one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure" (D.)

140. Because the functional limitations are set forth in the '167 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '167 patent.

141. Applicants argue:

142. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured

to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 6,598,167 do not recite at least these features" (Remarks, Page 43).

143. Examiner's response:

144. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '167 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite, show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

145. Applicants argue:

146. "[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '708 patent. Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,606,708. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the



customer's entitlements, and forwards messages to a proxy associated with a desired service"

(Remarks, Pages 44) (emphasis omitted).

147. Examiner's response:

Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,606,708 for the reasoning articulated below.

148. As noted above, "a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent" (**B.**). The disclosure of the '708 patent states:

"As illustrated in FIG. 4, after one of the DMZ Web servers 24 decrypts and verifies the user session, it forwards the message through a firewall 29b over a TCP/IP connection 23 to the dispatcher server 26 on a new TCP socket while the original socket 22 from the browser is blocking, waiting for a response. The dispatcher server 26 will unwrap an outer protocol layer of the message from the DMZ server cluster 24, and will reencrypt the message with a different encryption key and forward the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 will be blocking on a receive. While either symmetric or public key encryption can be used, in the preferred embodiment, public key encryption is utilized, with the "public" keys used between components of the network, kept secret. A different public key may be employed for communicating between the dispatcher 26 to the webserver 24 than is used from the webserver 24 to the dispatcher 26. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatcher server 26 from StarOE server 49 at logon time and cached."

(CC 8-9, LL 66-23).

149. This functional description of the invention claimed in the '708 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a

processor. However, Applicants have stated "one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure" (D.)

150. Because the functional limitations are set forth in the '708 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '708 patent.

151. Applicants argue:

152. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 6,606,708 do not recite at least these features" (Remarks, Page 44).

153. Examiner's response:

154. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in

the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '708 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite, show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

155. Applicants argue:

156. "[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '498 patent. Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,611,498. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service" (Remarks, Page 45) (emphasis omitted).

157. Examiner's response:

Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,611,498 for the reasoning articulated below.

158. As noted above, “a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent” (B.). The disclosure of the '498 patent states:

“As illustrated in FIG. 2, after one of the DMZ Web servers 24 decrypts and verifies the user session, it forwards the message through a firewall 25b over a TCP/IP connection 23 to the dispatch server 26 on a new TCP socket while the original socket 22 from the browser is blocking, waiting for a response. The dispatch server 26 unwraps an outer protocol layer of the message from the DMZ services cluster 24, and re-encrypts the message with symmetric encryption and forwards the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 block on a receive. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatch server 26 from the StarOE server 49 at logon time and cached.”

(CC 9, LL 22-40).

159. This functional description of the invention claimed in the '498 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated “one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure” (D.)

160. Because the functional limitations are set forth in the '498 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '498 patent.

161. Applicants argue:

162. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 6,611,498 do not recite at least these features" (Remarks, Page 46).

163. Examiner's response:

164. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '498 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite, show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

165. Applicants argue:

166. "[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '229 patent.

Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,745,229. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service" (Remarks, Pages 46-47) (emphasis omitted).

167. Examiner's response:

Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,745,229 for the reasoning articulated below.

168. As noted above, "a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent" (**B.**). The disclosure of the '229 patent states:

"As illustrated in FIG. 2, after one of the DMZ Web servers 24 decrypts and verifies the user session, it forwards the message through a firewall 25b over a TCP/IP connection 23 to the dispatch server 26 on a new TCP socket while the original socket 22 from the browser is blocking, waiting for a response. The dispatch server 26 unwraps an outer protocol layer of the message from the DMZ services cluster 24, and re-encrypts the message with symmetric encryption and forwards the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 block on a receive. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatch server 26 from the StarOE server 49 at logon time and cached."

(CC 7, LL 47-65).

169. This functional description of the invention claimed in the '229 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated "one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure" (D.)

170. Because the functional limitations are set forth in the '229 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '229 patent.

171. Applicants argue:

172. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 6,745,229 do not recite at least these features" (Remarks, Page 47).

173. Examiner's response:

174. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '229 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite, show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

175. Applicants argue:

176. "[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '376 patent. Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,763,376. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service" (Remarks, Pages 48) (emphasis omitted).



177. Examiner's response:

178. Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,763,376 for the reasoning articulated below.

179. As noted above, "a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent" (**B.**). The disclosure of the '376 patent states:

"All communications in both directions will be channeled through the DMZ Web servers. All communications between the DMZ Web servers and the client workstation will be encrypted using SSL. Requests from the client to the servers will be "wrapped" by the common communications service (see below) with session, authentication, and application-id information (prior to encryption).

For incoming (client-to-server) communications, the DMZ Web servers will decrypt the request, authenticate and verify the session information. The communication will then be forwarded through the firewall over an encrypted socket connection to a pair of decode/dispatch servers located within the MCI Intranet. These servers will decrypt the request, authenticate the user's access to the desire middle-tier service. Communications with each middle-tier service will be handled by proxy processes, which will manage the messages and communications with the actual middle-tier server.

Outgoing (server-to-client) communications will follow the reverse route. The proxies will feed responses to the decode/dispatch server, which will encrypt the client-bound messages and ship them to the DMZ Web servers over the socket connection. The Web servers will forward the information to the client using SSL."

(CC 6-7, LL 66-22).

180. This functional description of the invention claimed in the '376 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated "one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated

with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure" (D.)

181. Because the functional limitations are set forth in the '376 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '376 patent.

182. Applicants argue:

183. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 6,763,376 do not recite at least these features" (Remarks, Pages 48-49).

184. Examiner's response:

185. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '376 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite,

show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

186. Applicants argue:

187. “[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '571 patent. Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,968,571. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service" (Remarks, Pages 49-50) (emphasis omitted).

188. Examiner's response:

Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 6,968,571 for the reasoning articulated below.

189. As noted above, “a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent” (B.). The disclosure of the '571 patent states:

“As shown in FIG. 4, the aforesaid objects will communicate the data by establishing a secure TCP messaging session with one of the DMZ networkMCI Interact

Web servers 24 via an Internet secure communications path 22 established, preferably, with a secure socket SSL version of HTTPS. The DMZ networkMCI Interact Web servers 24 function to decrypt the client message, preferably via the SSL implementation, and unwrap the session key and verify the users session. After establishing that the request has come from a valid user and mapping the request to its associated session, the DMZ Web servers 24 will re-encrypt the request using symmetric encryption and forward it over a second secure socket connection 23 to the dispatcher server 26 inside the enterprise Intranet.”

(C 8, LL 15-28).

190. This functional description of the invention claimed in the ‘571 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated “one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure” (D.)

191. Because the functional limitations are set forth in the ‘571 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the ‘571 patent.

192. Applicants argue:

193. “Furthermore, claim 97, amended as proposed, recites “a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and

where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 6,968,571 do not recite at least these features" (Remarks, Page 50).

194. Examiner's response:

195. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '571 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite, show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

196. Applicants argue:

197. "[T]he Examiner has not explained how the at least one dispatch server, as recited in claim 97, is an obvious variant of the dispatch server recited in claim 1 of the '600 patent. Applicants submit that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 7,058,600. For example, claim 97, amended as proposed, recites "at least one dispatch server that communicates with the at least one secure web server and a plurality of system resources, provides verification of system access and verification of the customer's entitlements, and forwards messages to a proxy associated with a desired service" (Remarks, Page 51) (emphasis omitted).

198. Examiner's response:

Applicants argument has been considered, however, the Examiner disagrees with Applicants' assertion that the claims of the present application are not obvious variants of the claims of U.S. Patent No. 7,058,600 for the reasoning articulated below.

199. As noted above, "a patent's disclosure may be used to determine whether an application claim is merely an obvious variation of an invention claimed in a patent" (B.). The disclosure of the '600 patent states:

"As illustrated in FIG. 2, after one of the DMZ Web servers 24 decrypts and verifies the user session, it forwards the message through a firewall 25b over a TCP/IP connection 23 to the dispatch server 26 on a new TCP socket while the original socket 22 from the browser is blocking, waiting for a response. The dispatch server 26 will unwrap an outer protocol layer of the message from the DMZ services cluster 24, and will reencrypt the message with symmetric encryption and forward the message to an appropriate application proxy via a third TCP/IP socket 27. While waiting for the proxy response all three of the sockets 22, 23, 27 will be blocking on a receive. Specifically, once the message is decrypted, the wrappers are examined to reveal the user and the target middle-tier (Intranet application) service for the request. A first-level validation is performed, making sure that the user is entitled to communicate with the desired service. The user's entitlements in this regard are fetched by the dispatch server 26 from StarOE server 49 at logon time and cached."

(C 7, LL 42-60).

200. This functional description of the invention claimed in the '600 patent does not expressly state that there are instructions on a memory to perform the functions when executed by a processor. However, Applicants have stated "one of ordinary skill in the art would know how to determine, given the functional description, a structure of the recited secure web server. For example, one of ordinary skill in the art would know that a memory and a processor associated

with the secure web server, where the memory contains instructions to execute the recited functions by the processor, would provide such a structure" (D.)

201. Because the functional limitations are set forth in the '600 patent and Applicant have stated that one of ordinary skill in the art would be able to determine the structure of the instantly claimed elements if provided with the function, the Examiner concludes that the instant claim 97 is an obvious variant on claim 1 of the '600 patent.

202. Applicants argue:

203. "Furthermore, claim 97, amended as proposed, recites "a web-based delivery system that delivers to the customer an object oriented protocol that encrypts interactive communications between the system and the customer over the public Internet, where the protocol is configured to be invoked within a web browser executed by a workstation associated with the customer, and where the protocol supports encryption, customer identification, authentication and entitlements." The claims of U.S. Patent No. 7,058,600 do not recite at least these features" (Remarks, Page 51).

204. Examiner's response:

205. This passage is currently subject to rejections under 35 U.S.C. 112 2<sup>nd</sup> paragraph for being indefinite because the metes and bounds cannot be understood by one of ordinary skill in the art and 35 U.S.C. 112 1<sup>st</sup> paragraph for the introduction of new matter. As such, the argument that this passage establishes a non-obvious distinction between the claim in the '600 patent and the instant claim is not persuasive. If Applicants amend claim 97 to make it definite,

show support for the claimed elements, and the resulting claim is patentably distinct, the Examiner would withdraw this rejection.

*Conclusion*

206. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA MURDOUGH whose telephone number is (571)270-3270. The Examiner can normally be reached on Monday - Thursday, 7:00 a.m. - 5:00 p.m.

207. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

208. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joshua Murdough  
Examiner, Art Unit 3621

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621